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INTELLECTUAL PROPERTY LAW

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23 February 2009

Mail Stop 16  
Commissioner For Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

In the Application of  
Ognjen Amidzic  
Application No. 10/519,299  
Filed 2005-02-11

Dear Sir:

Please find a copy of a decision on the petition filed December 29, 2008 under the unintentional provision of 37 CFR 1.137(b) granting revival of the above-identified application.

This letter requests refund of an excess fee paid for an extension of time under 37 CFR 1.136. The amount of the excess fee was \$555.00. Kindly remit this excess fee to my office located at Peter A. Haas Esquire, 1929 SW 13<sup>th</sup> Ave., Portland, OR 97201 USA.

Sincerely,

Peter A. Haas, Reg. No. 52,481  
Attorney of record for the applicant  
503-319-3024



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
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**JAN 26 2009**

**OFFICE OF PETITIONS**

In re Application of	:	
Ognjen Amidzic	:	
Application No. 10/519,299	:	ON PETITION
Filed: February 11, 2005	:	
Attorney Docket No. None	:	

This is a decision on the petition filed December 29, 2008, which is being treated under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 7, 2008. No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the date of abandonment of this application is July 8, 2008. It is noted that a Request for Continued Examination (RCE) was filed on October 7, 2008; however, the RCE was held improper by a Notice mailed November 13, 2008. A Notice of Abandonment was mailed December 4, 2008. In response, on December 29, 2008, the present petition was filed.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is not a correct reading of the statement appearing in the petition.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$405, (2) the petition fee of \$810, and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See *In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$555 extension of time fee submitted with the petition on December 29, 2008 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 3736 for appropriate action by the Examiner in the normal course of business of the RCE in accordance with 37 CFR 1.114.

/SDB/

Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions